

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

ROGER WOODS

PLAINTIFF

VS.

CAUSE NO. 1:12CV13-M-S

MONROE COUNTY, MISSISSIPPI

DEFENDANT

PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION TO DISMISS

COMES NOW, Plaintiff Roger Woods, by and through counsel, and responds to Defendant's Motion to Dismiss and would show unto the Court as follows:

1. Plaintiff in this claims that a Monroe County Sheriff's Deputy wrongfully took from him cash in the amount of \$1,224.
2. Defendant argues the Complaint fails to state a claim against Monroe County because the Complaint does not allege that the Deputy acted pursuant to a custom or policy sufficient to establish County liability under *Monell v. Dept. of Soc. Serv.*, 436 U.S. 658, 56 L. Ed. 2d 611, 98 S. Ct. 2018 (1978).
3. Plaintiff concedes that the Complaint does not allege custom or policy pursuant to *Monell*. However, as set out in Plaintiff's Memorandum Brief, discovery may show a tacit custom or policy. Although the Complaint does not plead a custom or policy, Plaintiff requests that the Motion be denied to allow for discovery which may support his claim. Defendant's argument should be re-visited at the summary judgment stage.

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully requests the Court to deny Defendant's Motion to Dismiss. Plaintiff further requests such other and more general relief to which he is entitled.

RESPECTFULLY SUBMITTED, this the 3d day of October, 2012.

McLAUGHLIN LAW FIRM

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I certify that I have this day electronically filed the foregoing document with the Clerk of Court using the ECF system, which sent notification to the following:

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This, the 3d day of October, 2012.

/s R. Shane McLaughlin